

United States District Court
for
District of New Jersey

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: LEE, Davin

Docket Number: 10-00414-001

PACTS Number: 56365

Name of Sentencing Judicial Officer: Honorable Stanley R. Chesler, U.S.D.J.

Date of Original Sentence: 07/22/2010

Date of Revocation: 04/04/2011

Original Offense: Possession of a Firearm with an Obliterated Serial Number

Original Sentence: Time served; 3 years supervised release.

Revocation Sentence: 5 months imprisonment, 1 year supervised release; \$100 special assessment. Special condition: alcohol and drug testing/treatment.

Type of Supervision: Supervised Release

Date Supervision Commenced: 08/19/2011

Assistant U.S. Attorney: Zach Intrater, 970 Broad Street, Room 502, Newark, New Jersey 07102 (973) 645-2700

Defense Attorney: Linda D. Foster (AFPD), 1002 Broad Street, Newark, New Jersey 07102 (973) 645-6347

PETITIONING THE COURT

- ☐ To issue a warrant
☒ To issue a summons

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
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1

The offender has violated the special supervision condition which states 'You shall refrain from the illegal possession and use of drugs, including prescription medication not prescribed in your name, and the use of alcohol, and shall submit to urinalysis or other forms of testing to ensure compliance. It is further ordered that you shall submit to evaluation and treatment, on an outpatient or inpatient basis, as approved by the U.S. Probation Office. You shall abide by the rules of any program and shall remain in treatment until satisfactorily discharged by the Court. You shall alert all medical professionals of any prior substance abuse history, including any prior history of prescription drug abuse. The Probation Office shall supervise you compliance with this condition.'

On August 22, 2011 and April 30, 2012, respectively, Lee submitted a urine specimen which tested positive for marijuana and signed a corresponding admission form.

- 2 The offender has violated the standard supervision condition which states **'You shall report to the Probation Officer as directed by the Court or Probation Officer, and shall submit a truthful and complete written report within the first five days of each month.'**

The offender failed to report to the probation office as directed on September 21, 2011, December 8, 2011, and May 21, 2012. In addition, he failed to submit a monthly written report within the allotted time period for the following months: October 2011, November 2011, February 2012, and April 2012.

- 3 The offender has violated the standard supervision condition which states **'You shall not operate any motor vehicle without a valid driver's license issued by the State of New Jersey, or in the state in which you are supervised. You shall comply with all motor vehicle laws and ordinances and must report all motor vehicle infractions (including any court appearances) within 72 hours to the U.S. Probation Office.'**

On October 9, 2011, at approximately 11:00pm, near 25 Johnson Avenue, Lee was pulled over by Newark Police while unlawfully operating a motor vehicle.

- 4 The offender has violated the standard supervision condition which states **'You shall work regularly at a lawful occupation unless excused by the Probation Officer for schooling, training or other acceptable reasons.'**

Since February 2012, despite numerous referrals and without a credible excuse, the offender has been unemployed.

- 5 The offender has violated the standard supervision condition which states **'You shall answer truthfully all inquiries by the Probation Officer and follow the instructions of the Probation Officer.'**

As a response to accumulating noncompliance, the undersigned Probation Officer instructed Lee to perform three hours of community service within Newark on April 14, 2012, April 19, 2012, April 28, 2012, and May 5, 2012, respectively. Despite a viable excuse, he failed to attend accordingly on April 19, 2012 and/or May 5, 2012.

6

The offender has violated the mandatory supervision condition which states 'You shall not commit another federal, state, or local crime.'

On April 12, 2012, Lee was arrested by Newark Police Department and charged with multiple narcotic distribution offenses and resisting arrest. According to investigative reports, the offender and a co-defendant (Khalil Jeffress) engaged in an illegal drug sale within an apartment building located at 25 Johnson Avenue. Police recovered 118 glassine envelopes of heroin. Lee avoided apprehension by swinging his arms in a violent manner while being handcuffed.

He was released on bail and the case is pending disposition within New Jersey Superior Court, Essex County.

I declare under penalty of perjury that the foregoing is true and correct.

By: Joseph Empirio, U.S.P.O.

Joseph Empirio
Joseph Empirio 2012.06.05
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Date: 06/05/2012

THE COURT ORDERS:

☐ The Issuance of a Warrant

☒ The Issuance of a Summons. Date of Hearing: 6/19/2012 @ 12:00

☐ No Action

☐ Other



Signature of Judicial Officer

6/6/2012

Date

UNITED STATES DISTRICT COURT
PROBATION OFFICE
DISTRICT OF NEW JERSEY

WILFREDO TORRES
CHIEF PROBATION OFFICER

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June 5, 2012

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Honorable Stanley R. Chesler, U.S. District Court Judge
Martin Luther King Jr. Federal Building and Courthouse
P.O. Box 0999
Newark, New Jersey 07102

RE: LEE, Davin
Dkt. No.: 10-00414-001
Request for a Violation of
Supervised Release Hearing and
Issuance of a Summons

Dear Judge Chesler:

On July 22, 2010, Davin Lee was originally sentenced by Your Honor to a time served custodial penalty, followed by a three-year term of supervised release, for the offense of Possession of a Firearm with an Obliterated Serial Number. However, he failed to abide by the conditions of release, and on April 4, 2011, a Violation Hearing was held before Your Honor. Subsequent to a guilty plea, Lee's term was revoked and he was sentenced to five months imprisonment with a one-year term of Supervised Release to follow. The offender was also ordered to pay a \$100 special assessment and abide by the following special condition: alcohol and drug testing/treatment. Supervision recommenced on August 19, 2011.

As detailed in the attached petition, we are requesting that Your Honor issue a summons and schedule a hearing based on Lee's continued noncompliance with the conditions of supervised release. If you have any questions, please contact the undersigned officer at 973-445-8512.

Respectfully submitted,

WILFREDO TORRES, Chief U.S.P.O.

Joseph Empirio
Joseph Empirio 2012.06.04
23:58:08 -04'00'

JOSEPH EMPIRIO, U.S.P.O.

/jae
Enclosure(s)